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**AUG 02 2005**

**OFFICE OF PETITIONS**

In re Application of :  
Notaro et al. :  
Application No. 09/664,390 :  
Filed: 18 September, 2000 :  
Atty Docket No. 20846 :  
ON PETITION

This is a decision on the petition filed 30 June, 2005, under 37 CFR 1.137(b).<sup>1</sup>

The petition is **dismissed**.

The application became abandoned on 10 July, 2003, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed on 9 April, 2003, which set a three (3) month statutory period for reply. Notice of

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<sup>1</sup> Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Abandonment was mailed on 19 August, 2003. The petition filed on 26 April, 2005, was dismissed on 3 June, 2005.

Receipt of the issue and publication fees is acknowledged.

The application will be referred to the Publishing Division for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.



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Office of Petitions